

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of  
  
PUGET SOUND ENERGY, INC.  
  
for a Declaratory Order on the  
Service Area Agreement between Puget Sound  
Energy, Inc. and the City of Tacoma

NO. UE-000966

**PUGET SOUND ENERGY, INC.'S  
STATEMENT RE: CONSENT TO  
ENTRY OF DECLARATORY ORDER**

**STIPULATED FACTS**

Puget Sound Energy, Inc. ("PSE"), hereby responds to the Notice of Opportunity to Consent to Entry of a Declaratory Order issued by the Washington Utilities and Transportation Commission ("Commission") in this docket on July 3, 2000.

The Commission's notice raises the possibility that the Cities of Tacoma and/or Lakewood may seek to escape Commission determinations regarding Chapter 54.48 RCW and the Service Area Agreement between Tacoma and PSE by refusing to consent to the Commission's entry of a declaratory order.

PSE does not believe that RCW 34.05.240(7) can be used in this case to prevent the Commission's consideration of the issues raised in PSE's petition for declaratory order.

The Washington Supreme Court, after analyzing Chapter 54.48 RCW and the general powers granted to the Commission by the Legislature, held that:

[T]he WUTC has jurisdiction not only to approve or disapprove service area agreements but also to apply and interpret relevant statutes where a dispute arises pursuant to such an agreement *and to issue appropriate orders.*

Tanner Elec. Coop. v. Puget Sound Power & Light, 128 Wn.2d 656, 665

(1996) (emphasis added) (hereinafter, "Tanner").

There is no particular statute or Commission regulation setting forth the manner in which such matters are to be brought to the Commission for determination. PSE filed a petition for declaratory order because it felt that that was the most appropriate vehicle for bringing issues regarding its Service Area Agreement with Tacoma before the Commission, given the facts of this case.

If a party to a service area agreement could prevent the Commission from entering a declaratory order with respect to the agreement and relevant statutes merely by withholding consent under RCW 34.05.240(7), that would eviscerate the holding in the Tanner case.

In the event the Commission is nevertheless inclined to hold that it cannot enter a declaratory order if consent is not obtained under RCW 34.05.240(7), and if Tacoma and/or Lakewood decline to consent, PSE respectfully requests that the Commission treat its petition for declaratory order as a formal complaint or application for adjudicative proceeding. The Commission has authority to do so under its general powers, RCW 80.01.040, WAC 480-09-400, and the Tanner case.

DATED: July \_\_\_, 2000

**PERKINS COIE LLP**

By \_  
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Inc.